

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NARCISCO FRANCO,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

)
)
) Civil Action No. 05-10862-MEL
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)
)
)
)
)

**Response To Government's Motion For
Leave To File Late Its Memorandum
In Opposition To Petitioner's Motion
Under 28 U.S.C. § 2255**

Now Comes, Narcisco Franco, PRO-SE, hereby files this response motion to the Government's Motion For Leave to File Late Its Memorandum In Opposition To Petitioner's Motion Under 28 U.S.C. § 2255. The Petitioner opposes this motion and respectfully moves the court to deny the Governments Motion For Leave to File Late Its Memorandum In Opposition To Petitioner's Motion Under 28 U.S.C. § 2255. In support of this motion, the petitioner states that the Court granted one previous motion by the government, which was filed on May 27, 2005, for an extension of time to August 1, 2005. The government has requested, in its motion dated August 20, 2005 For Leave To File Late It's Memorandum In Opposition To Petitioner's Motion Under 28 U.S.C. § 2255. The governments failure to show good cause and for the foregoing reasons, the petitioner respectfully requests the Court deny the government leave to file late its memorandum in opposition to the petitioner's motion under 28 U.S.C. § 2255.

Respectfully submitted,
NARCISCO FRANCO
Petitioner (Pro-Se)

By: Narcisco A. Franco
Narcisco Franco
Inmate No. 23787-038
FSL Elkton, Unit HA
P.O. Box 10
Lisbon, OH 44432

DATED: August 29, 2005

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the institution's internal mailing system a copy of same in an envelope bearing sufficient postage for delivery:

Micheal J. Pelgro
Assistant U.S. Attorney
One Courthouse Way
Boston, Massachusetts 02210

United States District Court

District of Massachusetts

Notice of Electronic Filing

The following transaction was received from Howarth, George entered on 6/7/2005 at 9:06 AM EDT and filed on 6/6/2005

Case Name: Franco v. United States of America

Case Number: 1:05-cv-10862

Filer:

Document Number:

Docket Text:

Judge Morris E. Lasker : ORDER entered granting application, provided further requests for extensions of time are not to be made. [5] Motion for Extension of Time. (Howarth, George)

The following document(s) are associated with this transaction:

1:05-cv-10862 Notice will be electronically mailed to:

Michael J. Pelgro michael.pelgro@usdoj.gov

1:05-cv-10862 Notice will not be electronically mailed to:

Narciso A. Franco
23787-038
F.S.L. Elkton, Unit H/A
P.O. Box 10
Lisbon,, OH 44432

UNITED STATES OF AMERICA
DISTRICT OF MASSACHUSETTS

NARCISO FRANCO,)
Petitioner) CIVIL ACTION No. 05-10862-MEL
)
v.)
)
UNITED STATES OF AMERICA,)
Respondent)

GOVERNMENT'S MOTION FOR EXTENSION OF TIME
WITHIN WHICH TO FILE ITS RESPONSE TO
PETITIONER'S MOTION UNDER 28 U.S.C. § 2255

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this motion for an extension of time within which to file its response to the petitioner's motion under 28 U.S.C. § 2255. For the reasons set forth below, the government seeks an extension to Monday, August 1, 2005.

In support of this motion, the government states that the undersigned government counsel only recently received the Court's notice concerning the filing of a response to the petition as the AUSA who prosecuted the criminal case (AUSA Dickens Mathieu) left the office over a year ago as did the AUSA who dealt with the petitioner's direct appeal in his criminal case (AUSA Brian Leske). The government has to retrieve from archives its file in the criminal case and may need to order transcripts, depending on what was transcribed for the direct appeal. Further time is needed to accomplish

these tasks. In addition, government counsel has been heavily involved in several other investigations, trials, and appeals and thus has been unable to complete an appropriate response to date.

The government, therefore, respectfully requests that the Court grant it an extension of time within which to file its response to August 1, 2005.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:


MICHAEL J. PELGRO
Assistant U.S. Attorney

DATED: May 27, 2005.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Narciso A. Franco
Inmate No. 23787-038
FSL Elkton, Unit H/A
P.O. Box 10
Lisbon, OH 44432

This 27th day of May 2005.

A handwritten signature in dark ink, appearing to read "Michael J. Pelgro", is written over a horizontal line.

MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NARCISCO FRANCO,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

Civil Action No. 05-10862-MEL

**Government's Motion For Leave To File
Late Its Memorandum In Opposition To
Petitioner's Motion Under 28 U.S.C. § 2255**

Introduction

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this motion for leave to file late its memorandum in opposition to the petitioner's motion under 28 U.S.C. § 2255. In support of this motion, the government states that the Court previously allowed the government's motion, which was filed on May 27, 2005, for an extension of time to August 1, 2005 to file its response to the petitioner's motion. In the intervening time, the undersigned government counsel had to retrieve the criminal case file and to familiarize himself with the underlying criminal case (the prosecutors who handled the petitioner's criminal case and his direct appeal are no longer employed by the U.S. Attorney's Office). In addition, government counsel was involved in many other narcotics investigations and cases as well as in numerous supervisory duties within the U.S. Attorney's Office. Government counsel also was on vacation out of Massachusetts in July 2005. Due to these various circumstances, the government was unable to complete its response until today.

Based on the foregoing reasons, the government respectfully requests that the Court grant it leave to file late its memorandum in opposition to the petitioner's motion under 28 U.S.C. § 2255.

Respectfully submitted,
MICHAEL J. SULLIVAN
United States Attorney

By: /s/Michael J. Pelgro
Michael J. Pelgro
Assistant U.S. Attorney

DATED: August 20, 2005.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Narciso A. Franco
Inmate No. 23787-038
FSL Elkton, Unit H/A
P.O. Box 10
Lisbon, OH 44432

This 20th day of August 2005.

/s/Michael J. Pelgro
MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY